

**Thomas Carrique**

Commissioner Le Commissaire

File #: OPP-7900

February 22, 2022

Mr. Mario Di Tommaso, O.O.M.
Deputy Solicitor General, Community Safety
Ministry of the Solicitor General
11th Floor, 25 Grosvenor Street
Toronto ON M7A 1Y6

Dear Deputy Solicitor General Di Tommaso:

This letter is further to my correspondence dated February 15, 2022, wherein I provided notice of the potential for an unforeseen non-competitive procurement of towing operations services. In that letter, I committed to report back as additional operational detail and information became available.

At the time, we thought that the best approach would be the provisions of the Ontario Public Service Procurement Directive and its emergency provisions. As matters unfolded operationally in real time, the Ontario Provincial Police (OPP) was made aware of the following:

- the vendor community was highly reluctant to assist the police;
- initial conversations with the vendor community revealed that they would require several protections, including (i) an unusually broad and high risk indemnification from the Province for loss and damage, including as a result of any retaliation they might face in the future from protestors or others as a result of providing assistance to the police, and (ii) a commitment from the OPP to not reveal their name (confidentiality requirements);
- as advised by the Ministry of the Solicitor General Legal Services Branch (Legal), the OPP could not provide an indemnity without the approval of the Minister of Finance (or the President of Treasury Board Secretariat) as required by section 28 of the *Financial Administration Act*, which would take additional time, and the OPP could not promise confidentiality because of its obligations under, among other things, the *Freedom of Information and Protection of Privacy Act* and potentially future court orders or any demands as a result of inquiries related to the declaration of a public order emergency by Canada or the declaration of a province-wide emergency by the Province of Ontario; and,
- if the OPP were to enter into agreements with each vendor, a separate agreement would need to be negotiated each time a vendor was retained and there would simply not be enough time for this to be achieved when services needed to be in place by February 17, 2022, so that they could be in Ottawa for February 18, 2022.



On February 15, 2022, the same date of my original correspondence, we learned that the Government of Canada announced the declaration of a public order emergency under the *Emergencies Act*, to end disruptions, border blockades and the occupation of Ottawa's downtown core, implementing the *Emergency Measures Regulations* and the *Emergency Economic Measures Order* both pursuant to subsection 19(1) of the *Emergencies Act*.

The *Emergency Measures Regulations* (regulations) include provisions whereby the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police (RCMP), or a person acting on behalf of the RCMP can require a person to render essential goods and services for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

As part of its integrated role with the RCMP and the Ottawa Police Service, it became evident that the OPP was most operationally appropriate to lead the towing activities. Additionally, the regulations were supported by Legal as an appropriate way to address the need to have the services available quickly and also provide some comfort to the vendor community as the regulations include the following provisions:

- **Compensation for Essential Goods and Services.** The federal government must provide reasonable compensation for goods or services that must be provided in response to a request under these regulations, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered. *Note: Under section 7 of the regulations, the Commissioner of the RCMP agreed to delegate her authority to the OPP to employ these provisions. Under this authority (letter enclosed), the OPP will be managing payment and the RCMP will reimburse the OPP for the costs of such payments afterwards.*
- **Compensation.** Any person who suffers loss, injury or damage as a result of anything done, or purported to be done, under these regulations, can apply for compensation under the *Emergencies Act* (under Part V and any applicable regulations).
- **Protection from Personal Liability.** Subsection 47(1) of the *Emergencies Act* provides certain protection from personal liability. This provision states, among other things, that “[n]o action or other proceeding for damages lie or shall be instituted against...any person providing services pursuant to an order or regulation made under subsection...19(1)...for or in respect of any thing done or omitted to be done...in good faith...” The protection provided under this subsection of the *Emergencies Act* would extend to the towing services being requested pursuant to the regulations.

While this situation is unprecedented, the OPP worked with Legal and determined that because we are engaging companies under the provisions of the *Emergencies Act*, not as a procurement, contract or agreement, that we should work within the ‘reasonable compensation’ provisions consistent with the terms of the regulations. Enclosed are the letter and fee schedule we have provided to the identified vendors. On-ground verification of work will be confirmed daily with an OPP Traffic Sergeant to correspond with invoices remitted to the OPP's Business Management Bureau for payment.

The RCMP is working with the OPP's Business Management Bureau to formalize a reimbursement process for paid invoices.

Mr. Mario Di Tommaso, O.O.M.
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Please contact me if you require additional information on this matter.

Yours truly,

A handwritten signature in black ink, consisting of several loops and a final flourish.

Thomas Carrique, O.O.M.

Attachments

- c: Ms. Maria Duran-Schneider, Associate Deputy Minister, Corporate Services, Ministry of the Solicitor General
Ms. Shella Salazar, Chief Administrative Officer, Ministry of the Solicitor General
Deputy Commissioner Rose DiMarco, Provincial Commander, Traffic Safety and Operational Support
Deputy Commissioner Chris Harkins, Provincial Commander, Field Operations
Ms. Mary Silverthorn, Provincial Commander, Corporate Services

Royal Canadian Mounted Police
Commissioner



Gendarmerie royale du Canada
Commissaire

Guided by Integrity, Honesty, Professionalism, Compassion, Respect and Accountability

Les valeurs de la GRC reposent sur l'intégrité, l'honnêteté,
le professionnalisme, la compassion, le respect et la responsabilisation

**Authorization for Person Acting on Commissioner's Behalf
under Section 7 of the *Emergency Measures Regulations***

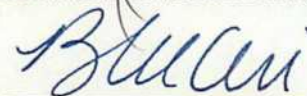
Pursuant to section 7(1) of the *Emergency Measures Regulations*, Commissioner Thomas Carrique of the Ontario Provincial Police ("OPP") and any OPP police officers designated by him are authorized to act on my behalf to request that any person make available and render essential goods and services for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

This authorization is conditional on OPP providing compensation on behalf of Canada to any persons from whom the OPP Commissioner or any OPP police officer designated by him requisitions essential goods or services. The RCMP will reimburse OPP for the cost of such payments afterwards, pursuant to section 9(1) of the *Emergency Measures Regulations*.



Commissioner Thomas Carrique, OPP

2022-02-17
Date



Commissioner Brenda Lucki, RCMP

2022-02-17
Date

Ottawa, Ontario
K1A 0R2

Ottawa (Ontario)
K1A 0R2



Thomas Carrique

Commissioner

Le Commissaire

File #: OPP-7900

February 17, 2022

To all identified towing companies:

On February 14, 2022, pursuant to the *Emergencies Act*, the federal government declared an emergency exists throughout Canada. It was further declared that the emergency necessitates the taking of special temporary measures for dealing with the emergency and provides a general description of the kinds of special temporary measures that may be needed. On February 15, 2022, Emergency Measures Regulations P.C. 2022-107 (regulations) came into force through emergency orders made under section 19 of the *Emergencies Act*.

The Ontario Provincial Police (OPP) thanks you for your willingness to engage in discussions to date to determine a solution that will help us move forward in this emergent situation. Pursuant to section 7(1) of the regulations, and on behalf of the Royal Canadian Mounted Police (RCMP), the OPP is now requiring you to make available, and render, the essential goods and services needed for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of blockades in Ottawa or other critical infrastructure locations in the province of Ontario. In accordance with the regulations, this letter serves as our request to you to provide these services.

This letter is written confirmation of verbal instructions from the OPP, acting on behalf of the RCMP, to provide these services from the date the regulations came into force, which was February 15, 2022, and notice that you are required to continue to comply and provide these services until:

- a) written notice that services are no longer required is provided to you from the OPP;
- b) the day the federal declaration of emergency ends (i.e., expires or is revoked); or,
- c) the day these regulations are repealed,

whichever is sooner.

Compensation for Essential Goods and Services. Please note that the regulations provide that the federal government must provide reasonable compensation for goods or services that must be provided in response to a request under these regulations, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.



To all identified towing companies
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Compensation. As set out in the regulations, please be aware that any person who suffers loss, injury or damage as a result of anything done, or purported to be done, under these regulations, can apply for compensation under the *Emergencies Act* (under Part V and any applicable regulations).

Protection from Personal Liability. Please note that subsection 47(1) of the *Emergencies Act* provides you with certain protection from personal liability. That subsection would include the regulations. This provision states, among other things, that “[n]o action or other proceeding for damages lie or shall be instituted against...any person providing services pursuant to an order or regulation made under subsection...19(1)...for or in respect of any thing done or omitted to be done...in good faith...”

Thank you for your support to respond under these emergent circumstances.

Yours truly,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a smaller, more complex mark.

Thomas Carrique, O.O.M.

**Thomas Carrique**

Commissioner Le Commissaire

File #: OPP-7900

February 17, 2022

To all identified towing companies:

The purpose of this document is to provide guidelines regarding payment for services that are being provided by you in accordance with the Emergency Measures Regulations (regulations) as ordered under the *Emergencies Act*.

Please be advised that compensation for essential goods and services are captured in the regulations in subsection 9(1) and provides as follows:

9(1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.

As per our earlier letter to you, we provided you with the above-noted request. At this time, we confirm that the Ontario Provincial Police (OPP), acting on behalf of the Royal Canadian Mounted Police, will be making all payments for services rendered. The attached fee schedule sets out current market pricing for the services you are providing.

Guidance on Fee Schedule:

- Tow Zone Pilot Hourly Rate (Hourly Rate) shall apply when deployed to the work area. Standby Rate (50 per cent of Hourly Rate, maximum 12 hours per day) shall apply when at staging area.
- Police protection will be provided and towing work will be carried out only in areas that have been cleared by the police.
- Travel time for time of first arrival and final departure from the work area based on the Hourly Rate.
- Preparation costs (e.g. to re-apply decals on equipment) will be assessed based on invoice.
- Pricing for this fee schedule has been based on the current market prices provided in the Ontario Ministry of Transportation Tow Zone Pilot Project. Additional information regarding fees for that project is available at the following link: <https://www.ontario.ca/page/tow-zone-pilot-fee-schedule>



To all identified towing companies

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Notes:

It is generally understood that in order to facilitate payment please note that:

- On-ground verification of work should be confirmed on a daily basis with: Traffic Sergeant Kyle Kneeshaw at Kyle.Kneeshaw@opp.ca. If the contact person for on-ground verification changes at any time, the OPP will provide you with notice as soon as possible with revised contact information for verification purposes.
- Invoices corresponding to verified work should be sent to Nancy Wagg, Manager, OPP Procurement Services, at Nancy.Wagg@opp.ca. If the contact person for billing changes at any time, the OPP will provide you with notice in writing of this change and will provide you with the revised contact information for billing purposes.
- It is the expectation of the OPP and its policing partners that while emergent police operations are ongoing, confidentiality of all information received by you will be maintained.

Yours truly,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a smaller, more complex mark.

Thomas Carrique, O.O.M.

Attachment

Fee Schedule

Equipment	Hourly Rate	Standby Rate (hourly)
65 Ton Rotator including operator (2017 KW 65 T Rotator; 1991Kenw NRC Heavy Rotator)	\$750.00	\$375.00
50 Ton Fixed Boom including operator (2014 PTRB 50 Ton)	\$600.00	\$300.00
40 Ton Fixed Boom including operator (2021 Freightliner NRC Heavy; 2020 Freightliner NRC Heavy)	\$525.00	\$262.50
30 Ton Fixed Boom including operator (2019 PTRB Straight 50 Ton)	\$450.00	\$225.00
Tandem Axle Tractor with Quick Swap including operator (2009 PTRB Quick swap Heavy; 2009 Peterbilt Quick swap; 2013 Peterbilt Quick swap)	\$450.00	\$225.00
Medium Duty Tandem Flatbed including operator (2016 Medium Duty tandem flatbed)	\$275.00	\$137.50
Tandem Axle Tractor including operator	\$250.00	\$125.00
Landoll Trailer	\$175.00	\$87.50
Skid Steer	\$200.00	\$100.00
Incident Response Vehicle including operator	\$325.00	\$162.50
Service Vehicle/ Secondary Response Vehicle including operator	\$175.00	\$87.50
Supervisor	\$175.00	\$87.50
Certified Mechanic	\$150.00	\$75.00